IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

WP(C).No. 29945 of 2006(M)

RCA.101/2006 of DISTRICT COURT, THRISSUR
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PETITIONER:

SHALINI S., AGED 50 YEARS,
W/O. SADASIVA SAIT, UNITY ROAD, CHELAKOTUKARA,
THRISSUR-5.

BY ADV. SRI.RENJITH THAMPAN

RESPONDENTS:
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1. SOUTH INDIAN BANK LTD.,
HEAD OFFICE, MISSION QUARTERS, THRISSUR-1.

2. RENT CONTROL COURT, THRISSUR.

3. RENT CONTROL APPELLATE AUTHORITY,
THRISSUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN & K.P. BALACHANDRAN, JJ.

W.P.(C) 29945/2006

DATED THIS, THE 14TH DAY OF NOVEMBER, 2006.

J U D G M E N T

Raman, J.

Petitioner seeks for a writ of mandamus to the appellate authority under the Kerala Buildings (Lease and Rent Control) Act to pass orders on Exts.P4 and P5 expeditiously and to stay further proceedings pursuant to Ext.P1, till then.

2. According to the petitioner, an order was passed by the Rent Control Court declining to allow the petition filed by her challenging the maintainability of the rent control petition under Section 11(7) of the Rent Control Act. Admittedly, the said appeal is preferred not within time but with a delay of 1026 days. The said delay has not been condoned by the appellate authority when alone, the appeal will become entertainable on

merits. Therefore, no direction as such can be issued to the appellate authority to consider the appeal at this stage, since such consideration will be depend upon the result of the petition for condonation of delay, filed along with the appeal. According to the petitioner, after the order impugned in the appeal was passed by the Rent Control Court, the Rent Control Court is proceeding to decide the matter. When admittedly, petitioner has preferred the appeal belatedly and in the absence of any petition being moved before the appellate authority pointing out any urgency in the matter, no direction to the appellate authority could be issued by way of a writ of mandamus since there is no demand and refusal. In such circumstances, we decline to grant the relief as sought for. At the same time, the petitioner, if so advised, can move the appellate authority itself for an early disposal of the delay petition and thereafter the appeal, by pointing out the urgency, if any in the matter and if such an application is

filed, we have no doubt in our mind, that the appellate authority will consider and dispose of the same, in accordance with law.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

K.P. BALACHANDRAN,
(JUDGE)

knc/-